

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

MICHAEL PUGLISI, FAINA MILLER,  
KATHLEEN HURST, SADIA SYED, and  
CLAYTON MILLS, on behalf of themselves and  
all others similarly situated,

Plaintiffs,  
-against-

TD Bank, N.A.,

Defendant.

No. 13 Civ. 0637 (LDW) (GRB)

**NOTICE OF MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION  
SETTLEMENT, CONDITIONAL CERTIFICATION OF THE SETTLEMENT  
CLASS, APPOINTMENT OF PLAINTIFFS' COUNSEL AS CLASS COUNSEL,  
AND APPROVAL OF PLAINTIFFS' PROPOSED NOTICES OF SETTLEMENT**

For the reasons set forth in the Memorandum of Law in Support of Plaintiffs' Motion for Preliminary Approval of the Settlement, Conditional Certification of the Settlement Class, Appointment of Plaintiffs' Counsel as Class Counsel, and Approval of the Proposed Notices of Settlement and Class Action Settlement Procedure ("Motion for Preliminary Approval"), the Declaration of Justin M. Swartz in Support of Plaintiffs' Motion for Preliminary Approval ("Swartz Declaration"), the Declaration of Gregg I. Shavitz in Support of Plaintiffs' Motion for Preliminary Approval, the Declaration of Troy L. Kessler in Support of Plaintiffs' Motion for Preliminary Approval, and the Declaration of Peter Winebrake, Plaintiffs respectfully request that the Court enter an Order:

(1) granting preliminary approval of the Joint Stipulation of Settlement and Release (“Settlement Agreement”), attached as Exhibit A to the Swartz Declaration;

(2) conditionally certifying the following settlement subclasses under Fed. R. Civ. P. 23(a) and (b)(3) for purposes of effectuating the settlement:

- a. New York Sub-Class: The “New York Sub-Class” consists of all current and former ASMs employed by Defendant in its branches in the State of New York during the period from February 4, 2007 through the date the Court enters the Preliminary Approval Order;
- b. Pennsylvania Sub-Class: The “Pennsylvania Sub-Class” consists of all current and former ASMs employed by Defendant in its branches in the Commonwealth of Pennsylvania during the period from February 4, 2010 through the date the Court enters the Preliminary Approval Order; and
- c. New Jersey Sub-Class: The “New Jersey Sub-Class” consists of all current and former ASMs employed by Defendant in its branches in the State of New Jersey during the period from February 4, 2011 through the date the Court enters the Preliminary Approval Order;

(3) appointing Outten & Golden LLP, the Shavitz Law Group, P.A., Shulman Kessler LLP, and Winebrake & Santillo, LLC as Class Counsel;

(4) approving the proposed Notice of Proposed Settlement of Class Action Lawsuit and Fairness Hearing and Claim Form, attached as Exhibit B to the Swartz Declaration; and the proposed Notice of Proposed Settlement of Collective Action Lawsuit and Fairness Hearing and Claim Form, attached as Exhibit C to the Swartz Declaration; and directing their distribution;

(5) approving the Parties’ proposed schedule for final settlement approval; and

(6) granting such other, further, or different relief as the Court deems just and proper.

\* \* \*

Plaintiffs have contemporaneously submitted a Proposed Order, attached hereto as  
**Exhibit A**, for the Court's convenience.

Dated: August 22, 2014  
New York, New York

Respectfully submitted,  
**OUTTEN & GOLDEN LLP**

/s/ Justin M. Swartz  
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**Attorneys for Plaintiffs, the Collective, and  
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